

## **REMARKS**

Claims 1-21 and 24-33, all of the claims presently pending in the application, stand rejected on prior art grounds.

It is noted that Applicants specifically state that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-8, 10-24, and 26-31 stand rejected under 35 USC §102(e) as anticipated by US Patent 6,434,609 to Humphrey. Claims 9 and 25 stand rejected under 35 USC §103(a) as unpatentable over Humphrey, further in view of US Patent 6,598,071 to Hayashi et al. Claims 32 and 33 stand rejected under 35 USC §103(a) as unpatentable over Humphrey, further in view of Applicants' Admitted Prior Art.

These rejection based on Shuster are respectfully traversed in view of the following discussion.

### **I. THE CLAIMED INVENTION**

Applicants' invention, as disclosed and claimed in independent claim 1, is directed to a method in a computer network of controlling an admittance of requests to at least one processing component. The amount of network traffic is evaluated to determine if the amount exceeds a preset threshold.

If the preset threshold is exceeded, the content of each request is differentiated in to types and the request is admitted only if the differentiated type meets at least one criterion for admission.

The conventional method discussed on pages 1-4 of the specification makes no differentiation of requests based upon a content of the request. Moreover, the current content throttler presented as prior art does not first evaluate network traffic to determine whether the content-based throttling should be invoked.

### **II. THE PRIOR ART REJECTION**

The Examiner alleges that Humphrey anticipates the present invention as defined by claims 1-8, 10-24, and 26-31 and, when modified by at least one of Hayashi or AAPA,

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renders obvious claims 9, 25, 32, and 33.

Applicants respectfully disagree and submit that the rejection currently of record fails to meet the initial burden by failing to identify specific component(s) in Humphrey that satisfy the plain meaning of the claim language.

More specifically, Applicants submit that Humphrey is directed to an entirely different concept of serving as a threshold detector for converting into a satellite distribution mode when the client site caches detect sufficient user interest in information content and that, because of this different purpose, the plain meaning of the claim language of the independent claims is clearly not satisfied.

That is, relative to claim 1, the Examiner relies upon the description at lines 31-39 of column 6 and lines 12-22 of column 9 of Humphrey. However, Applicants submit that the mechanism described therein and elsewhere in Humphrey is different from that described in the independent claim.

In Humphrey, although there is clearly a threshold detection based on amount of traffic, as explained at lines 11-17 of column 9, it serves a different purpose. When this threshold is reached, the system begins the satellite broadcast mode (lines 17-20). When this threshold is not reached for the local demand, the system then asks whether there is nonetheless sufficient demand for a global demand, as explained at lines 19-26.

Applicants submit that this mechanism fails to meet the plain meaning of the claim language, since there is no indication of the final two claim limitations.

That is, in Humphrey, crossing over the local threshold merely changes into the satellite broadcast mode in which information packets are distributed via satellite link instead of having each individual's packets distributed through the Internet mechanism shown in Figure 1. There is no corresponding process in this description which satisfies the requirement that crossing the threshold causes a process of "... *differentiating a type of said requests based on a content in each said request....*"

The content in the requests for the program being broadcast, in Humphrey does not serve as a basis for differentiating the requests into types, as required by the plain meaning of the claim language. It is the number of the requests that cause the action in Humphrey, not the content in each request.

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Moreover, Applicants submit that the Examiner's reliance on lines 12-22 of column 9 for the final limitation is also misplaced. The Examiner's rationale is that a "...*pass request for next rule implies differentiated request type.*"

In response, Applicants submit that the wording in Humphrey upon which the Examiner seems to rely is the description at lines 19-22: "*If the rate of the requests for information does not exceed the predetermined threshold, the system may pass the request for information to the next rule 114.*"

However, Applicants submit that the mechanism being accomplished in this description is that, having failed to cross the local threshold that would initiate the satellite broadcast mode, this statement refers to the step of using the local requests as an input into a second evaluation of whether there is a larger global threshold that has been crossed that would likewise initiate the satellite broadcast mode.

Applicants submit that, to one of ordinary skill in the art, this mechanism is quite different from the Examiner's characterization, since although the number of local requests might be characterized as being admitted into the evaluation of the global threshold, the requests themselves are not entered into this evaluation process, as required by the plain meaning of the claim language.

Nor does the Examiner's characterization attempt to explain how each request has been differentiated into types, what these types are, and what the admission criterion is. Applicants submit that the Examiner has the burden of accounting for all of these aspects described by the plain meaning of the final two claim limitations.

Applicants submit that, to one of ordinary skill in the art, in Humphrey, the local requests for receiving the program being broadcast from the source are not refused admittance under either the internet distribution mode of Figure 1 or the satellite distribution mode of Figure 2. Nor is there any type of differentiation of requests as based on content of each request.

The Examiner relies upon Hayashi for allegedly demonstrating average traffic and/or average response time per unit of time and upon AAPA for allegedly demonstrating layer 4 load balancing. Therefore, regardless of the propriety of modifying Humphrey with either or both of Hayashi or AAPA, these two references are

not alleged by the Examiner in a manner that would overcome the basic deficiency identified above for Humphrey.

Hence, turning to the clear language of the claims, in Humphrey there is no teaching or suggestion of: “...if said amount exceeds said threshold, differentiating a type of said requests based on a content in each said request; and admitting said each request only if said differentiated type meets at least one criterion for admission”, as required by claim 1. The remaining independent claims have similar language.

Therefore, the claimed invention is clearly patentable over Humphrey.

Moreover, relative to the rejection currently of record for the remaining claims, Applicants submit that there are at least the following deficiencies.

Relative to claim 2, as best understood, the Examiner is relying upon lines 64-65 of column 7: “*The cache adapter 27 responds negatively to the request notifying the cache 28 to search elsewhere.*” Applicants submit that, to one of ordinary skill in the art, this statement is quite different from the plain meaning of the claim language that a message be returned to each sender of a refused request.

Relative to claim 3, Applicants submit that, without a reasonably meaningful differentiation of types of requests in Humphrey, the current rejection makes little sense.

Relative to claims 4 and 5, Applicants submit that the Examiner has not met the initial burden of positively identifying what is being considered as an “entry point” in the system in Humphrey. As best understood, the Examiner seems to be attempting to use entry into the Internet service provider’s cache 25 shown in Figure 2. However, it is noted that the decision in Humphrey would be better characterized as occurring in the Internet cache 15 shown in Figure 1.

Relative to claim 10, Applicants submit that, since the method of Humphrey does not have “types of requests based on content of the request”, there is no further refinement. The prioritization of outputs described at lines 1-6 of column 10 is a different concept.

Relative to claims 11, 12, and 14, Applicants request that the Examiner positively identify the processing component considered as being the “dependee” processing component and how the load for that dependee component is determined in Humphrey.

Relative to claim 15, Applicants request that the Examiner identify specifically which of the cited lines discuss a “user defined response”.

Relative to claim 17, Applicants submit that the description at the cited lines refer to information not being stored, not to availability of a processing component.

Relative to claim 18, Applicants request that the Examiner positively identify the “target processing component”.

Relative to claim 19, although broadcasting might be characterized as a distribution of information, this description does not match the plain meaning of the claim language.

### **III. FORMAL MATTERS AND CONCLUSION**

In view of the foregoing, Applicant submits that claims 1-21 and 24-33, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee’s Deposit Account No. 50-0510.

Respectfully Submitted,

Date: 6/22/05

  
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S/N 09/916,513  
IBM Docket: YOR920010330US1